

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Staton Holdings, Inc. d/b/a)	
Staton Wholesale,)	
)	
Complainant,)	
)	
v.)	
)	
MCI WorldCom Communications, Inc.,)	File No. EB-02-TC-F-008
)	
Defendant)	
)	
and)	
)	
Sprint Communications Company, L.P.,)	File No. EB-03-TC-F-002
)	
Defendant.)	

ORDER

Adopted: May 12, 2004

Released: May 13, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Order, we grant in part a Complaint filed by Staton Holdings, Inc., d/b/a/ Staton Wholesale (“Staton”)¹ against MCI WorldCom Communications, Inc. (“MCI”),² but deny

¹ Although Staton filed its complaints (“Staton Complaints”) in one pleading, the staff assigned different file numbers for each individual defendant. Therefore, the Staton Complaints referred to throughout this order are identical in all respects. Staton initially included Mills Fleet Farm, Inc. and First Data Voice Service as defendants, but they were dismissed from the case on June 30, 2003 because they are not common carriers, and thus the complaints against them did not state a cause of action under section 208. *Staton Holding, Inc. v. Mills Fleet Farm, Inc. et al.*, Order, DA 03-2101 (Enforcement Bureau rel. June 30, 2003)

² See *Staton v. MCI*, File No. EB-02-TC-F-008 (filed December 20, 2002). The complaint against MCI was automatically stayed pursuant to 11 U.S.C. Section 362(a) because of MCI’s pending bankruptcy proceeding. See 11 U.S.C. § 362(a). On April 22, 2003, Staton filed a Motion for Relief from Automatic Stay to Pursue Administrative Relief (“Staton Motion for Relief”). See *WorldCom Inc., Motion for Relief from Automatic Stay to Pursue Administrative Relief*, Case No. 02-4223-AJG, United States

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Staton's complaint against Sprint Communications Company, L.P., ("Sprint").³ The complaints allege that Staton acquired the right to use the toll-free vanity number 888-888-8888 (the "All Eights Number"),⁴ and that defendants MCI and Sprint transferred the rights to use this number from Staton to a third party without Staton's consent,⁵ in violation of Sections 1, 201(b) and 251(e)(1) of the Communications Act of 1934, as amended (the "Act"),⁶ and several Commission orders dealing with the assignment of toll free numbers. Staton's prayer for relief requests that the All Eights Number be re-assigned to Staton.⁷

II. BACKGROUND

2. Staton is a clothing distributor based in Dallas, Texas, with annual revenues of approximately \$130,000,000.⁸ It is incorporated in Texas, and has been in business since 1981. Staton receives customer orders via telephone, facsimile, and through the Internet. Staton states that from September 1999 to September 2001, it purchased its long distance telecommunications services under the MCI On-Net Voice Agreement and under MCI Tariff FCC No. 1.⁹ Staton asserts that it has used the telephone number 1-800-888-8888 in its business continuously since it was obtained in September 1998. Staton states that it informed MCI in June 1995 that it also wanted to be assigned the All Eights Number under its right of first refusal to reserve equivalent "888" numbers.¹⁰ According to Staton, MCI granted the request and, effective September 25, 1998, Staton had the right to use the All Eights Number.¹¹

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Bankruptcy Court, Southern District of New York, April 22, 2003. Upon stipulation, the United States Bankruptcy Court of the Southern District of New York entered on July 15, 2003 a Stipulation and Order Resolving Motion of Staton Holdings, Inc. for Relief from Automatic Stay to Pursue Administrative Relief ("Bankruptcy Stipulation and Order"). See *WorldCom, Inc., Stipulation and Order Resolving Motion of Staton Holdings, Inc. for Relief from Automatic Stay to Pursue Administrative Relief*, Chapter 11 Case No. 02-13533-AJG, United States Bankruptcy Court, Southern District of New York, July 15, 2003. The Bankruptcy Stipulation and Order granted Staton's Motion for Relief, and ordered that the automatic stay be modified to permit Staton and MCI to continue and conclude this FCC proceeding "solely with respect to a determination of liability and adjudication of claims for injunctive relief with respect to the disconnection and reassignment of the All Eights Number." With the automatic stay modified, MCI filed the Answer of MCI WorldCom Communications, Inc., on September 22, 2003 ("MCI Answer"). See *Staton v. MCI*, File No. EB-02-TC-F-008, Answer of MCI WorldCom Communications, Inc., filed by MCI on September 22, 2003.

³ See *Staton v. Sprint*, File No. EB-03-TC-F-002 (filed December 20, 2002). Sprint filed an Answer to Staton's Complaint on March 14, 2003 ("Sprint Answer"). See *Staton v. Sprint*, File No. EB-03-TC-F-002, Answer, filed by Sprint on March 14, 2003.

⁴ Staton Complaints at 8.

⁵ *Id.* at S-1, 4, 5, 14, 15, 16, 17, 18.

⁶ 47 U.S.C. §§ 151, 201(b), 251(e)(1).

⁷ Staton Complaints at 18, 19.

⁸ *Id.* at 5, 6.

⁹ *Id.* at 6, 7.

¹⁰ Section 251(e)(1) of the Act grants the Commission the jurisdiction to administer telecommunications numbering, and was used as the basis for creating the limited exception to the first-come, first-served

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3. MCI billed Staton for the All Eights Number for consecutive time periods starting September 1998 through a billing period ending on November 14, 2000.¹² Staton received no bill for the period November 15, 2000 through December 14, 2000, but was billed again by MCI for the period December 15, 2000 through January 14, 2001.¹³ MCI has no explanation for this gap in billing periods.

4. According to Staton, it used the All Eights Number as a primary facsimile line for customer orders, and had the number printed in its catalogs.¹⁴ Staton states that it planned to retire the All Eights Number as a facsimile line, and to use the number to enter the “voice portal market.”¹⁵ To that end, Staton’s 2001 catalog no longer listed the All Eights Number as a primary facsimile line.¹⁶ Staton believed that the easily recognizable nature of the All Eights Number would allow its new business plan to succeed, and states that it invested substantial time and money in developing this line of business.¹⁷

5. MCI apparently disconnected the All Eights Number from Staton’s Corporate Identifier Number on October 27, 2000.¹⁸ MCI readily admits that this was the result of an error by a former MCI employee.¹⁹ On October 31, 2000, an MCI representative was contacted by FDC Interactive (“Call Interactive”), also an MCI customer, expressing interest in the All Eights Number.²⁰ Call Interactive represented to MCI that it had tried the All Eights Number, and a recording indicated that it was not in use.²¹

6. MCI checked the status of the All Eights Number, and learned that MCI was the Responsible Organization (“RespOrg”)²² for the number.²³ MCI’s internal database revealed that

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policy by permitting a right of first refusal for the 888 set-aside numbers. *See Toll Free Service Access Codes*, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058 (1998).

¹¹ Staton Complaints at 9.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 9, 10; *see also* Staton Complaints, Exhibit H.

¹⁵ Staton Complaints at 11. The voice portal market, as Staton describes it, offers consumers access to a wide variety of information by calling a toll-free number.

¹⁶ *Id.* at 12.

¹⁷ *Id.* at 12-13.

¹⁸ *See* MCI Answer at 3, 5, 11, 13, 16.

¹⁹ *Id.* at 3, 5, 11, 16, 18

²⁰ *Id.* at 16; *see also* MCI Answer, Exhibit 2.

²¹ MCI Answer at 16.

²² A “responsible organization” or “RespOrg” is defined as the “entity chosen by a toll free subscriber to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.” 47 CFR § 52.101(b).

²³ MCI Answer at 16.

the All Eights Number was in a hold status.²⁴ According to MCI, a number will remain in a hold status within MCI for 45 days, before it gets released to the toll-free spare number pool.²⁵ On November 2, 2000, MCI apparently assigned the All Eights Number to Call Interactive's Corporate Identification Number, while leaving the number in hold status.²⁶ The MCI service representative for Call Interactive contacted the MCI service manager for the All Eights Number, but did not receive a return call.²⁷ There is no evidence that a second attempt to contact that MCI service manager was ever made.

7. On January 2, 2001, Call Interactive reiterated its interest in obtaining the All Eights Number. By then, the number had been in hold status for more than 45 days. Accordingly, on January 4, 2001, the number was assigned to Call Interactive.²⁸ These dates are consistent with MCI's invoices to Staton, which show a lower volume of traffic for the October/November 2000 period when the number was first disconnected from Staton, and explains the lack of a November/December 2000 invoice. It does not explain, however, the later December 2000 /January 2001 invoice. According to MCI, it received a Letter of Authorization from Call Interactive dated April 11, 2001 to have the All Eights Number ported to Sprint.²⁹ On April 18, 2001, Sprint became the RespOrg for the All Eights Number.³⁰

8. Staton states that it first became aware that it was disconnected from the All Eights Number in June 2001.³¹ According to Staton, the disconnection was not discovered earlier because the number was relegated by Staton for use as a secondary facsimile line, and as such would not have received much traffic. Staton contends that it contacted MCI and Sprint in June to have the number restored to Staton.³² At that time, Call Interactive was already using the All Eights Number.

III. DISCUSSION

9. Staton alleges that "Defendants MCI and Sprint knowingly and intentionally took the All Eights Number from Staton without its consent," and that such "willful misconduct" violated sections 1, 201(b), and 251(e)(1) of the Act, as well as several Commission orders

²⁴ *Id.* at 16, 17; *see also* MCI Answer, Exhibit 2.

²⁵ MCI Answer at 17; *see also* MCI Answer, Exhibit 2.

²⁶ MCI Answer at 17.

²⁷ *Id.*; *see also* MCI Answer, Exhibit 2. MCI does not state when this call was placed, but the record indicates that, at the very least, it was prior to when Call Interactive was assigned the All Eights Number. *Id.* Further, although MCI does not explicitly state why the call was placed, it is reasonable to assume from the language in MCI's Answer that it was placed to check the status of the All Eights Number.

²⁸ MCI Answer at 18; *see also* MCI Answer, Exhibit 2.

²⁹ *See* MCI Answer, Exhibit 1.

³⁰ MCI Answer at 18.

³¹ Staton Complaints at 12.

³² *Id.* at 12; *see also* Staton Complaints, Ex. L. Exhibit L, while described by Staton as a transcript, is a series of notes allegedly taken by Staton's counsel denoting the dates and times that calls were placed, along with a purported summary of each conversation.

concerning toll free number assignments. Staton asks for the immediate return of the All Eights Number, and states that upon a determination of liability, it will seek damages from MCI and Sprint “in a separate proceeding under Section 1.722 of the FCC’s rules.”³³

A. Procedural Issues

10. We begin by addressing two procedural issues. First, MCI raises as an affirmative defense the requirement under Section 415(b) of the Act that all complaints against carriers for the recovery of damages be filed with the Commission within two years from the time the cause of action accrues. According to MCI, Staton’s complaint was filed outside this statute of limitations.³⁴ We conclude that Staton’s complaint against MCI was filed within two years of the accrual of Staton’s cause of action.

11. The relevant dates are as follows. On October 27, 2000, MCI disconnected the All Eights Number from Staton.³⁵ According to Staton, MCI sent invoices for the All Eights Number covering service through January 14, 2001.³⁶ MCI asserts that the last “substantial” invoice for the All Eights Number sent to Staton was dated November 25, 2000, but does not specifically deny that it sent later invoices.³⁷ The parties agree that Staton did not realize that the All Eights Number had been disconnected until June 2001.³⁸ Staton’s complaint against MCI was filed on December 20, 2002.

12. In determining when Staton’s cause of action accrued, we apply the “discovery-of-injury” rule.³⁹ That is, Staton’s cause of action accrued when it discovered, or with due diligence should have discovered, that it had been injured. In this case, the parties agree that Staton did not actually discover the disconnection of the All Eights Number until June 2001, which would bring the filing of the Complaint well within the two year statute of limitations. MCI, who bears the burden of proof on this affirmative defense, argues that there was no legitimate reason for Staton’s failure to discover the disconnection earlier.⁴⁰

13. At least as long as MCI was continuing to bill Staton for service to the All Eights Number, however, Staton’s failure to realize that the All Eights Number was out of service was not unreasonable. There is no indication in the record that MCI ever affirmatively informed

³³ Staton Complaints at 17.

³⁴ 47 U.S.C. § 415(b). The facts set forth in MCI’s Answer on this issue appear to relate to an entirely different case, inasmuch as they refer to complainants not present here, and dates that are plainly unrelated to this case. *See* Answer at 15, para. 33.

³⁵ *See* Joint Statement of Complainant and Defendants, filed October 1, 2003 at 6, para. 1 (“Joint Statement”).

³⁶ *Id.* at 5, para. 5.

³⁷ *Id.* at 8, para. 14.

³⁸ *Id.* at 6, para. 9, and 7, para. 12.

³⁹ *See MCI Telecommunications Corp. v. FCC*, 59 F.3d 1407 (1995) (holding that “discovery-of-injury” rule, rather than “time-of-injury” rule, applied in section 208 complaint case); *Communications Vending Corp. of Arizona, Inc. v. FCC*, ___ F.3d ___, 2004 WL 911769 (D.C. Cir. April 30, 2004).

⁴⁰ MCI Answer at 20.

Staton that the All Eights Number had been disconnected. Indeed, the record indicates that MCI continued sending bills for service to that number until January 2001, which would have suggested to Staton that its service remained fully operational. Because the service at issue was an inbound service (*i.e.*, customers used the number to call in to Staton, Staton did not use it to call out), the disconnection was perhaps less immediately apparent than it would have been if an outbound service were disconnected. Moreover, the All Eights Number was not Staton's only toll-free service number. According to Staton, it was using the All Eights Number only as a secondary fax line at the time it was disconnected, and no customers ever contacted Staton to complain that the number was not working.⁴¹ As set forth above, Staton's cause of action accrued when it should have, with due diligence, discovered that it had been injured. Accordingly, we find that Staton's cause of action accrued no sooner than the date of MCI's last invoice, which puts the complaint within the two-year limitations period.

14. The second procedural issue we address concerns a motion filed by MCI. On October 14, 2003, Staton filed with the Commission a letter reiterating previous arguments and introducing new issues and facts in the case.⁴² MCI filed a Motion to Strike the *Staton Letter* on October 23, 2003 ("MCI Motion to Strike").⁴³ Staton filed an Opposition to the Motion to Strike on October 29, 2003.⁴⁴ We grant MCI's Motion to Strike the *Staton Letter*. This letter was filed in violation of the Commission's formal complaint rules and procedures because there is no accommodation for such a filing in the pleading schedule, and no leave to file the letter was requested.⁴⁵

B. MCI's Actions

15. MCI and Staton have stated that "the key legal issue in this Action is whether MCI's actions with respect to the All Eights Number were negligent or can be characterized as willful misconduct."⁴⁶ As explained below, we find that MCI was negligent, but that Staton has failed to prove willful misconduct.

16. On the issue of negligence, MCI admits that it disconnected the All Eights Number from Staton, but asserts that this action was "an error."⁴⁷ MCI seems to concede that its actions were negligent, focusing its defense in the case on the issue of willful misconduct. In any event, MCI offers no explanation as to how the alleged error occurred, and offers no basis to rebut the assertion that its actions were at least negligent. Accordingly, we find that MCI acted

⁴¹ Joint Statement at 4, para. 2.

⁴² Letter from Walter Staton, Executive Vice President, Staton Wholesale to Lynn Vermillera and David Hunt, FCC, October 14, 2003 ("*Staton Letter*").

⁴³ See Motion of MCI WorldCom Communications, Inc to Strike, filed October 23, 2003.

⁴⁴ See Staton's Opposition to Motion to Strike, filed October 29, 2003.

⁴⁵ See generally 47 C.F.R. §§ 1.720-1.736. Even if we had considered the letter, it does not add additional facts or issues that would change the outcome of this proceeding. The letter focuses mainly on Staton's speculation regarding potential motives MCI may have had to intentionally disconnect Staton from the All Eights Number. Staton does not, however, support its speculative theories with record evidence.

⁴⁶ Joint Statement at 9.

⁴⁷ See MCI Answer at 3, 5, 11, 13, 16.

negligently in disconnecting the All Eights Number.

17. On the issue of willful misconduct, Staton asserts that willful misconduct means the “intentional performance of an act with knowledge that the performance of that act will probably result in injury or damage, or . . . the intentional omission of some act, with knowledge that such omission will probably result in damage or injury”⁴⁸ Staton does not provide evidence to counter MCI’s assertion that its disconnection of the All Eights Number was merely an error, and provides no evidence that MCI acted intentionally. Accordingly, Staton has failed to prove willful misconduct.

18. Staton alleges that MCI violated sections 1, 201(b), and 251(e)(2) of the Communications Act by its actions. Section 201(b) of the Act requires that all “charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is . . . unlawful.”⁴⁹ We agree that MCI’s negligent disconnection of the All Eights Number constituted an unjust and unreasonable practice within the meaning of section 201(b), and therefore find that MCI has violated section 201(b). As to sections 1 and 251(e)(2), however, we conclude that these sections impose no duty on MCI that has been violated.

19. Staton contends that MCI violated Section 1 of the Act, which sets forth the mission of the FCC to “make available, so far as possible, to all the people of the United States, without discrimination . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges”⁵⁰ Staton contends that MCI violated this Section because it did not provide a vanity service access code on an equitable basis.⁵¹ Section 1 of the Act, however, does not establish any requirements for common carriers, and does not create a cause of action between private parties. Accordingly, we find that MCI did not violate Section 1.

20. Staton also contends that by failing to provide a vanity code on an equitable basis, MCI violated Section 251(e)(1) of the Act. Section 251(e)(1) of the Act confers jurisdiction on the FCC over certain numbering matters:

The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.

Staton, while acknowledging that “[Section] 251(e)(1) of the Act do[es] not expressly impose

⁴⁸ Staton Complaints at note 37 (citing *Gerri Murphy Realty, Inc. v. AT&T Corp.*, 16 FCC Rcd 19134 (2001)).

⁴⁹ 47 U.S.C. § 201(b).

⁵⁰ 47 U.S.C. § 151.

⁵¹ Staton Complaints at 14.

specific requirements upon carriers,”⁵² nevertheless contends that this section creates a requirement “that carriers ensure all [vanity codes] are provided on an equitable basis.”⁵³ Staton does not, however, cite any Commission rule, order, or other authority demonstrating that the Commission has imposed such toll-free numbering responsibilities upon carriers or “responsible organizations” such as MCI or Sprint. This, coupled with Staton’s own admission that Section 251(e)(1) does not expressly impose requirements upon carriers, leads us to reject its Section 251(e)(1) argument. Accordingly, we conclude that Staton’s Section 251(e)(1) allegations fail.

21. Staton also alleges that MCI violated “various FCC Rulings,”⁵⁴ citing generally to a number of orders and letters relating to the administration of toll free numbers.⁵⁵ Staton does not describe, however, what specific obligations it believes that MCI has violated. Without more, we find that Staton has failed to prove any such violations.

C. Sprint’s Actions

22. Staton asserts that Sprint also violated the Communications Act and “various FCC Rulings.” Staton asserts, without any evidence to support the assertion, that Sprint intentionally induced MCI to disconnect Staton from the All Eights Number.⁵⁶ Sprint denies these allegations, stating that the transfer of the All Eights Number from Staton was a *fait accompli* before Sprint ever became the RespOrg for the number.⁵⁷

23. Staton bears the burden of proof in this case. The record demonstrates that Staton was already disconnected from the All Eights Number before Call Interactive requested that the number be ported to Sprint from MCI. Staton offers no evidence whatsoever that Sprint did anything improper or that Sprint induced MCI to disconnect Staton from the All Eights Number. Accordingly, we find that Staton has failed to prove that Sprint engaged in any misconduct in violation of the Communications Act. We therefore deny Staton’s claims against Sprint.

D. Remedies

a. Damages

24. The Bankruptcy Court order that permitted this case to go forward states that if MCI is found liable, “all further proceedings regarding determination and liquidation of damages shall take place in the Bankruptcy Court” *except* that “[i]n the event that the FCC determines that

⁵² See Reply to Answer filed by Staton, March 26, 2003, at 8.

⁵³ Staton Complaints at 14.

⁵⁴ Staton Complaints at 4.

⁵⁵ See *Toll Free Service Access Codes*, Report and Order, 11 FCC Rcd 2496 (1996); *Toll Free Service Access Codes*, Second Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 11162 (1997); *Toll Free Service Access Codes*, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058 (1998); Letter from Geraldine A. Matise, FCC, to Michael Wade, Database Service Management, Inc. (April 2, 1998); Letter from Geraldine A. Matise, FCC, to Michael Wade, Database Service Management, Inc. (May 15, 1998).

⁵⁶ Staton Complaints at 16.

⁵⁷ Sprint Answer at 13-16.

[MCI is] liable for negligent, and not willful, reassignment of the All Eights Number, then the parties hereby agree that Staton's claim for damages only shall be liquidated at the tariff cap amount of \$1000, and shall be allowed in that amount and not subject to further appeal by either party."⁵⁸ Similarly, Staton and MCI have agreed in this case that in the event that MCI is found liable for negligence, but not willful misconduct, "Staton's claim for damages only shall be liquidated at the tariff cap amount of \$1,000, and shall be allowed in that amount and not subject to further appeal by any party."⁵⁹ Accordingly, we award damages from MCI to Staton in the amount of \$1000.

b. Equitable relief

25. Staton asks that the Commission order the current user of the All Eights Number to surrender its rights to Sprint, and order Sprint to assign the All Eights Number to Staton.⁶⁰ The relief that Staton seeks obviously cannot be granted without causing harm to the current user of the All Eights Number. In the judicial context, it is an "age-old principle that in formulating equitable relief a court must consider the effects of the relief on innocent third parties."⁶¹ In light of this general equitable principle, we find that we must balance the equities of granting the relief requested by Staton against the harm to a third party if that relief is granted.

26. The All Eights Number is currently being used by Call Interactive. There is no evidence in this record to suggest that Call Interactive is anything other than a completely innocent third party. The record indicates that on April 10, 2001, Call Interactive authorized Sprint to become the RespOrg for the All Eights Number, that Sprint began carrying Call Interactive's traffic on April 16, 2001, and that the number is active and being used to generate traffic.⁶² Staton has provided no other evidence of the importance, or lack thereof, of the All Eights Number to Call Interactive.

27. Turning to Staton, there is no doubt that Staton has suffered some harm as a result of the loss of the All Eights Number caused by MCI's negligent disconnection of service. At the same time, however, we consider a number of facts weighing against return of the number to Staton. First, Staton presents almost nothing by which we can quantify the extent of the harm from loss of the number. At the time that MCI disconnected the number, Staton was using it only as a secondary fax line.⁶³ Staton asserts that it had plans to launch a "voice portal" service using the number, but it had not yet done so. Staton asserts generally that monetary damages would be inadequate compensation for loss of the All Eights Number, and states that its proposed voice portal service would obtain a "competitive edge provided with the ease of memory and the unique nature of the toll-free All Eights Number."⁶⁴ Because of the extreme sparseness of the

⁵⁸ Bankruptcy Stipulation and Order at para 5.

⁵⁹ Joint Statement at 8-9.

⁶⁰ Staton Complaints at 18.

⁶¹ *In re Envirodyne Indus.*, 29 F.3d 301, 303 (7th Cir. 1994) (citing *International Brotherhood of Teamsters v. United States*, 431 U.S. 324 (1977)).

⁶² Joint Statement at 3, paras. 7-8.

⁶³ Staton Complaints at 12.

⁶⁴ Staton Complaints at 11.

record, however, we have no real evidence that Staton could not simply launch its voice portal system with another toll free number, such as the 1-800-888-8888 number that it currently has assigned to it. Thus, the extent of the harm to Staton is speculative.

28. Moreover, Staton did not act promptly to protect its rights. Even after discovering the disconnection of the All Eights Number, Staton waited 18 months before filing this complaint with the Commission. During that time, Call Interactive continued to use the number.

29. Considering all of these factors, we find that the balancing of equities here weighs in favor of leaving the All Eights Number with Call Interactive. Staton, which bears the burden of proof as Complainant, has not persuaded us that it would be more equitable to take the number from Call Interactive and give it to Staton, than to leave things as they currently stand. Accordingly, we deny the equitable relief that Staton requests.

IV. ORDERING CLAUSES

30. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 4(j), 201(b) and 208 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 154(j), 201(b), 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the above-captioned Complaint of Staton Holdings, Inc., against Sprint Communications Company, L.P. is DENIED, and that the Complaint of Staton Holdings, Inc. against MCI WorldCom Communications, Inc. is granted to the extent set forth herein.

31. IT IS FURTHER ORDERED, pursuant to Sections 1, 4(i) and 209 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 209, that MCI WorldCom Communications, Inc. shall pay Staton Holdings, Inc., within 60 days of release of this Order, damages in the amount of \$1,000.

32. IT IS FURTHER ORDERED that MCI's Motion to Strike the October 14, 2003 letter filed by Staton Holdings, Inc., IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau